



ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

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December 13, 2007

To the Regulated Industry:

Due to changing market conditions, strong arguments have been advanced for modifying the statute regarding sampling and testing requirements for biodiesel and E85. The current statute and implementing rule do not take into consideration the preference to blend these motor fuels at the terminal storage rack as they are loaded into transports prior to delivering them to a retail fueling site or another distribution facility.

The existing statute was written on the assumption that blending would be done in large batches in storage tanks, not by individual truck loads. As currently written, blenders of these products are required to sample and test each truck load. Given the prevalent blending practices, this rule has become an unintentional impediment to the use of biofuels.

So that those proposing statutory changes will have sufficient time to bring them before the legislature in the coming session, effective with the date of this letter and continuing through December 31, 2008 the Department will exercise its enforcement discretion regarding the statutes and administrative rules governing biodiesel and E85 blending at the terminal rack. The Department will continue to require those who blend biodiesel or E85 in batches in storage tanks to report under the current regulations. Blenders and marketers blending biofuels at the rack will be required to sample 10% of the trucks in which biofuels are blended or one sample per week, whichever is more frequent, following all QA/QC procedures and assuring that the sample is random and representative. Results from those samples and accompanying documentation on sample source (including a copy of the Product Transfer Documents) and handling shall be sent to the Department along with the other reporting requirements by the 15th of the month following the shipments. At the same time the Department will be stepping up its own sampling and testing to ensure the quality of these products is maintained.

The Department is only issuing this enforcement discretion for R20-2-718 (A)(4)(e) and (f) and R20-2-719 (B)(4). All other requirements will still apply.

Should you have any questions regarding how the Department will exercise enforcement discretion, please contact Duane Yantorno at (623) 463-9942 or via e-mail at dyantorno@azdwm.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Seth Mones", followed by a long, horizontal, wavy line.

Seth Mones
Acting Director
Arizona Department of Weights and Measures